



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,175	03/12/2004	Hisayoshi Mizuhara	021964/337034	9524
826	7590	10/05/2009		
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			EXAMINER BRITTAIN, JAMES R	
			ART UNIT	PAPER NUMBER
			3677	
			MAIL DATE	DELIVERY MODE
			10/05/2009 PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/799,175

**Applicant(s)**

MIZUHARA ET AL.

**Examiner**

JAMES R. BRITTAIN

**Art Unit**

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,5 and 7-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5 and 7-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 5 and 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wasko (US 4090279) in view of Schwendt (US 3922761).

Wasko (figures 2, 3) teaches bottom end stop structure in which fastener elements are attached to fastener tapes wherein there are plural ribs 36 that are part of an inner portion and an outer portion is formed by the rim 38 of a thicker dimension.

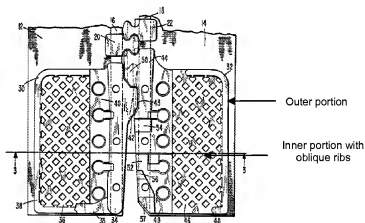
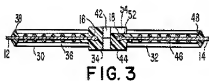


Figure 2

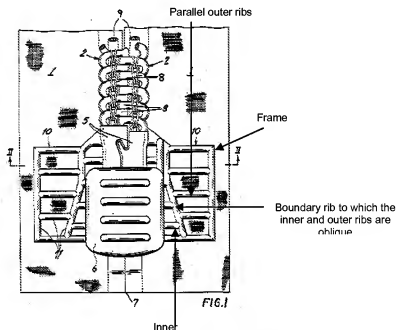
Claim 1 calls for concave portions formed among the ribs. The specification on page 7, ¶12, lines 8-11 defines concave portions by "Further, preferably, a concave portion is formed in, for example, a through-hole shape or a concave shape having a

Art Unit: 3677

thin bottom portion, among the ribs in the inside portion of the reinforcement portion."

The through-hole shape between the ribs down to the tape is clearly shown by Wasko and thus Wasko includes this claim limitation.

The difference is that the outer portion is only the rim and lacks a set of parallel ribs. However, Schwendt (figure 1) teaches that in the environment of an inner portion with ribs oblique to a boundary structure that it is desirable to further have an outer portion with parallel ribs oblique to a portion of the boundary rib so as to better stabilize the ribs and improve the strength of the bottom stop.



It would have been obvious to modify the bottom stop of Wasko so that the outer portion is a set of parallel ribs in view of Schwendt (figure 1) teaching that in the environment of an inner portion with ribs oblique to a boundary structure that it is desirable to further have an outer portion with parallel ribs oblique to a portion of the boundary rib so as to better stabilize the ribs and improve the strength of the bottom

stop. The outer configuration of the ribs of the applied references is rounded in the form of mounds in cross-section and thus has a rounded configuration when also viewing the intersection of the ribs in plan view. The language in this aspect is broad. As to claim 2, Wasko as indicated above has an outer portion in the form of the rim that is thicker than the inner portion. In regard to claim 5, the bottom vertex in the resultant diamond-shaped gap formed between the ribs of the device of Wasko defines a dented portion facing the top end of the structure. As to the placement of the ribs relative to the end of the tape, Schwendt suggests distancing the ribs further from the end of the tape than the bottom of the pin box and renders such structure obvious. As to claim 9, the injection molding process inherently adheres the yarns of the tape together. In regard to claim 10, applicant was given Official Notice in the previous office action that such penetration is common in an injection molding environment and it would have been obvious to have penetration of the resin into the tapes. Since there has been no traversal of the Official Notice, this is taken as recognition by applicant that the well known penetration of the tapes by the plastic during the molding process is a well understood phenomenon and is made final. As to claim 11, the particular choice of dimensions is a matter of scaling the teachings of Wasko to the appropriate environment of use and would have been obvious.

### ***Response to Arguments***

Applicant's arguments filed June 3, 2009 have been fully considered but they are not persuasive. The argument is made that the limitation of the arc lines in plan view avoids the art of record is unpersuasive because even in plan view the rounded

configuration of the ribs of the applied references is still observed, the ribs don't look flat, and that is all that is need to meet this limitation as indicated in the previous communication and reiterated herein. Even if the language was tightened so as to explicitly call for the ribs to have edge portions curved in an arc in the plane of the fastener tapes, which is not the case in the claims as now presented, such would have been obvious and Zbinden (US 2814847) is cited as showing openings 16, 18 defined by ribs with curved edges forming arcs in the plane of the fastener tapes and such arcs serve as stress relievers.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES R. BRITTAIN whose telephone number is (571)272-7065. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on (571) 272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/James R. Brittain/  
Primary Examiner, Art Unit 3677

JRB